# FINDINGS OF CONFORMANCE MULTIPLE SPECIES CONSERVATION PROGRAM For Bursztyn TPM 20840RPL<sup>2</sup>

May 24, 2007

#### I. Introduction

The project is a minor subdivision to divide 23.3 acres into four residential lots. Project development will include earthwork to construct four (4) residential pads, septic fields and an access road to the east (through an adjacent proposed subdivision) to La Cresta Road. The site is located south of La Cresta Road at the terminal end of Forester Creek Road. Single family residential development within the City of El Cajon and County's jurisdiction borders three sides of the property. Land to the east is the only undeveloped area remaining in the immediate project vicinity.

The property is an irregular shaped parcel that extends southeast from La Cresta Road and rises in elevation to 960-980 feet around three small peaks before dropping off to the east. The site is dominated by Diegan coastal sage scrub with small amounts of coast live oak woodland in several areas. Forester Creek passes near the north property line on the eastern side of the project and then through the northwestern portion of the site bordering La Cresta Road. The creek supports southern coast live oak forest in both areas on the project site.

Biological resources on-site include the following habitats: 20.91 acres of Diegan coastal sage scrub (CSS), 1.07 acres of southern coast live oak forest (SCLORF), 1.32 acres of coast live oak woodland (CLOW). Several sensitive species were observed on-site: palmer's goldenbush, San Diego viguiera, cooper's hawk, red-tailed hawk and turkey vulture. Palmer's goldenbush (*Ericameria palmeri* ssp. *palmeri*) is an MSCP narrow endemic. Other sensitive species are known to occur in the project area and are addressed in the biological resources report. Protocol surveys were conducted for the California gnatcatcher and Quino Checkerspot butterfly (QCB). These surveys were negative and in the case of the QCB no host plants were present.

Project development will impact a total of 10.2 acres of CSS (8.54 acres on-site and 1.66 acres off-site) and 0.47 acres of SCLORF (0.22 acres on-site and 0.25 acres off-site). A total of 14.54 acres of habitat will be preserved on-site within a biological open space easement. The San Diego viguiera is wide-spread in the coastal sage scrub. Impacts to this species and the avian species are mitigated through habitat preservation. No impacts will occur to the MSCP narrow endemic plant species, Palmer's goldenbush as it will be protected within the proposed open space easement. Within the MSCP, the site is located along the western edge of a regional PAMA linkage that extends from the Crestridge mitigation bank southwards. The site is constrained as a wildlife linkage due to existing development, except for the elevational change around the three peaks. However, this area may provide a stepping stone linkage within the surrounding area for avian species moving between the blocks of undeveloped land and the PAMA linkage.

Mitigation will preserve this portion of the site. Project impacts require the preservation of 15.3 acres of CSS and 0.94 acres of SCLORF. Overall mitigation will preserve 12.37 acres of coastal sage scrub, 0.85 acres of southern coast live oak forest and 1.32 acres of coast live oak woodland on-site. Off-site mitigation through the preservation of 2.9 acres of CSS will meet the required mitigation ratio of 1.5:1. The on-site preserved habitat will be placed into a biological open space easement with fencing and signs near the proposed development and signage around the remaining open space perimeter. A limited building zone adjacent to the biological open space will preclude future development from encroaching and impacting the preserve. The off-site access road crossing of Forester Creek will impact jurisdictional wetlands. Purchase of 0.25 acres of wetland habitat credits will be required along with state Streambed Alteration Agreement and federal Section 401/404 permits.

Table 1. Impacts to Habitat and Required Mitigation

Habitat Type	Tier Level/ Mitigation Ratio	Existing On-site (ac.)	Proposed On- site Impacts (ac.)	Proposed off- site impacts (ac)	Required Mitigation	Open Space (ac)	Off-site mitigation (ac)
Diegan Coastal							2.9
Sage Scrub	II/1.5:1	20.91	8.54	1.66	15.3	12.37	
Coast Live Oak							0.00
Woodland	I/2:1	1.32	0.00	0.00	0.00	1.32	
Southern Coast							.25*
Live Oak Forest	I/2:1	1.07	0.22	.25	0.94	.85	
Total:		23.3	8.76		16.24	14.54	3.15

<sup>\*</sup> created wetland habitat credits

The findings contained within this document are based on County records, staff field site visits and the biological resources report prepared by Vince Scheidt and dated May, 2006. The information contained within these Findings is correct to the best of staff's knowledge at the time the findings were completed. Any subsequent environmental review completed due to changes in the proposed project or changes in circumstance shall need to have new findings completed based on the environmental conditions at that time.

The project has been found to conform to the County's Multiple Species Conservation Program (MSCP) Subarea Plan, the Biological Mitigation Ordinance (BMO) and the Implementation Agreement between the County of San Diego, the CA Department of Fish and Game and the US Fish and Wildlife Service. Third Party Beneficiary Status and the associated take authorization for incidental impacts to sensitive species (pursuant to the County's Section 10 Permit under the Endangered Species Act) shall be conveyed only after the project has been approved by the County, these MSCP Findings are adopted by the hearing body and all MSCP-related conditions placed on the project have been satisfied.

### II. Biological Resource Core Area Determination

The impact area and the mitigation site shall be evaluated to determine if either or both sites qualify as a Biological Resource Core Area (BRCA) pursuant to the BMO, Section 86.506(a)(1).

A. Report the factual determination as to whether the proposed Impact Area qualifies as a BRCA. The Impact Area shall refer only to that area within which project-related disturbance is proposed, including any on and/or off-site impacts.

A portion of the project site is within a PAMA linkage. Therefore, the site is a BRCA.

B. Report the factual determination as to whether the Mitigation Site qualifies as a BRCA.

As a Biological Resource Core Area, the open space resulting from this project is considered part of the regional MSCP preserve system. As such, all of the requirements relating to the "Preserve" outlined in the County's Subarea Plan, the Implementation Agreement and the Final MSCP Plan apply to this open space.

### **III. Biological Mitigation Ordinance Findings**

#### A. Project Design Criteria (Section 86.505(a))

The following findings in support of Project Design Criteria, including Attachments G and H (if applicable), must be completed for all projects that propose impacts to Critical Populations of Sensitive Plant Species (Attachment C), Significant Populations of Narrow Endemic Animal Species (Attachment D), Narrow Endemic Plant Species (Attachment E) or Sensitive Plants (San Diego County Rare Plant List) or proposes impacts within a Biological Resource Core Area.

1. Project development shall be sited in areas to minimize impact to habitat.

Project development will occur along the eastern portion of the site adjacent to existing development to the north and south of the project. This will reduce the amount of grading and construction noise, limit the amount of required fire fuel management. On-site areas and habitat associated with Forester Creek are avoided.

2. Clustering to the maximum extent permitted by County regulations shall be considered where necessary as a means of achieving avoidance.

The average slope, general plan designation and minimum lot size per zoning prevent clustering from being an effective tool to avoid impacts. The project is

proposed in an area adjacent to existing residential development and has therefore, reduced impacts by "clustering" near other residences.

3. Notwithstanding the requirements of the slope encroachment regulations contained within the Resource Protection Ordinance, effective October 10, 1991, projects shall be allowed to utilize design that may encroach into steep slopes to avoid impacts to habitat.

Slope encroachment was not a tool used to reduce impacts with this project. Encroachment into steep slopes on this site would have increased impacts both to the visual environment and additional sensitive habitat types and species.

4. The County shall consider reduction in road standards to the maximum extent consistent with public safety considerations.

The project's road standards are at the minimum necessary to ensure public health and safety. No additional reductions are/were possible. This criteria was not used to reduce or avoid impacts.

 Projects shall be required to comply with applicable design criteria in the County MSCP Subarea Plan, attached hereto as Attachment G (Preserve Design Criteria) and Attachment H (Design Criteria for Linkages and Corridors).

The proposed project is in compliance with Attachments G and H. See below for additional details.

#### B. Preserve Design Criteria (Attachment G)

In order to ensure the overall goals for the conservation of critical core and linkage areas are met, the findings contained within Attachment G shall be required for all projects located within Pre-Approved Mitigation Areas or areas designated as Preserved as identified on the Subarea Plan Map.

1. Acknowledge the "no net loss" of wetlands standard that individual projects must meet to satisfy State and Federal wetland goals, policies, and standards, and implement applicable County ordinances with regard to wetland mitigation.

The project site may contain jurisdictional resources in two locations on the property. No impacts are proposed within the jurisdictional limits on-site. The access road will impact 0.25 acre of jurisdictional wetlands associated with the crossing of Forester Creek. Mitigation is required such that 0.25 acres of created wetland habitat is purchased. Therefore, the project will achieve the no-net-loss standard.

2. Include measures to maximize the habitat structural diversity of conserved habitat areas, including conservation of unique habitats and habitat features.

The project will preserve the most sensitive habitat types, the majority of the CSS, varying terrain and rock features and sensitive species within an open space easement. Fencing, signs and a limited building zone will reduce potential future encroachment as a result of development. Therefore, the project open space will conserve the unique structural diversity and habitats found on-site.

3. Provide for the conservation of spatially representative examples of extensive patches of Coastal sage scrub and other habitat types that were ranked as having high and very high biological value by the MSCP habitat evaluation model.

The site supports CSS, CLOW and SCLORF habitats and is mapped as very high habitat value. The proposed open space preserve will protect more than 2/3 of the CSS and SCLORF and all of the CLOW. A total of 14.74 acres will be preserved, which is approximately 63% of the site. The required mitigation is 16.24 acres. The shortfall of 2.9 acres of Tier II habitat will be purchased off-site within a BRCA of the MSCP.

4. Create significant blocks of habitat to reduce edge effects and maximize the ratio of surface area to the perimeter of conserved habitats. Subsequently, using criteria set out in Chapter 6, Section 6.2.3 of the MSCP Plan, potential impacts from new development on biological resources within the preserve that should be considered in the design of any project include access, nonnative predators, non-native species, illumination, drain water (point source), urban runoff (non-point source) and noise.

The project site is an irregular shaped parcel surrounded by existing residential development on three sides. These constraints do increase the potential edge effects of any preserve design. However, the site's topography and inaccessibility reduce the potential for human encroachment and provide for a trade-off that makes the undeveloped portions of the site attractive as a preserve area. The proposed open space includes the three small peaks in the central portion of the site, the riparian resources, oak woodland and a large block of CSS totaling 14.74 acres. This is a large block of habitat in a relatively developed area that can act as a stepping stone between other undeveloped lands and the PAMA linkage. Additional measures to reduce edge effect impacts include the installation of fencing and signs at key locations around the open space and placement of limited building zones to restrict future development around the proposed project area. These measures and the size of the open space will reduce edge effects and provide for a viable preserve.

#### 5. Provide incentives for development in the least sensitive habitat areas.

The project site is mapped as very high habitat value and consists entirely of sensitive Tier I and II habitat types. Project development will occur primarily within the Tier II, CSS habitat adjacent to existing development and close to the proposed access road. Impacts to the CLOW, SCLORF, sensitive species and CSS have been reduced or avoided. Although impacts will occur to CSS habitat, impacts to the most sensitive portions of the site have been reduced.

### 6. Minimize impacts to narrow endemic species and avoid impacts to core populations of narrow endemic species.

One narrow endemic species occurs on the project site, Palmer's goldenbush. However, it will be completely preserved within the proposed biological open space easement and so impacts have been avoided.

#### 7. Preserve the biological integrity of linkages between BRCAs.

The project site is located along the western edge of a PAMA linkage that connects the Lakeside area to the Sweetwater River area. The site is surrounded by residential development on three sides except to the east. The development levels in the vicinity preclude the majority of the site from functioning as an integral linkage between BRCAs for many species. The exception is avian species. The site's topography and structural habitat diversity may supplement the PAMA linkage (and therefore linkages between BRCAs) by acting as a stepping stone for dispersing avian species. The proposed open space will preserve the topographical peaks and diverse habitat elements.

## 8. Achieve the conservation goals for covered species and habitats (refer to Table 3-5 of the MSCP Plan).

No covered species were observed on-site. However, the project site contains several habitat types that could support covered species such as the California gnatcatcher. The mitigation measures proposed – biological open space, limited building zones, fencing, open space signs and breeding season avoidance – will adequately mitigate for any potential impacts to covered species and habitats.

### C. Design Criteria for Linkages and Corridors (Attachment H)

For project sites located within a regional linkage and/or that support one or more potential local corridors, the following findings shall be required to protect the biological value of these resources:

### 1. Habitat linkages as defined by the BMO, rather than just corridors, will be maintained.

The site is located on the western edge of a PAMA linkage that extends from Lakeside towards the Sweetwater River. The linkage in the project's vicinity is a small extension across La Cresta Road that projects eastward towards Crest. The maximum width of the linkage in this area is approximately 1350 feet immediately east of the project. The linkage constricts to less than 300 feet wide as it approaches existing residential development along Old Bend Road and La Cresta Road. This linkage area consists of the remaining undeveloped lots south of La Cresta Road including the project site. Species movement westward onto the site would not afford a means of dispersing farther because of the adjacent development. However, the topography and structural habitat diversity on-site may supplement the PAMA linkage (and therefore linkages between BRCAs) by acting as a stepping stone for dispersing avian species. The proposed open space will preserve the topographical peaks and diverse habitat elements.

### 2. Existing movement corridors within linkages will be identified and maintained.

The existing development on three sides of the project site limit movement corridors except for avian species or those ubiquitous species found through undeveloped and urbanized areas. In addition, Forester Creek may provide a limited movement route. The proposed open space will preserve those portions of Forester Creek and riparian vegetation, and the topographical and structural habitat diversity as a stepping stone for dispersing species.

#### 3. Corridors with good vegetative and/or topographic cover will be protected.

The proposed open space is vegetated with CSS, CLOW and SCLORF that are all well developed in growth, with limited to no fire activity having reduced the structural heterogeneity. In addition, the open space will preserve the small peaks, rock formations and creek that provide additional cover for movement. Therefore, the project will meet this finding.

4. Regional linkages that accommodate travel for a wide range of wildlife species, especially those linkages that support resident populations of wildlife, will be selected.

Although located partially within a regional PAMA linkage, the site has limited functionality for large species movement because of existing development on three sides and the proposed development to the east. The proposed open space represents the most suitable habitat that could act as a "stepping" stone linkage for avian species.

5. The width of a linkage will be based on the biological information for the target species, the quality of the habitat within and adjacent to the corridor,

topography, and adjacent land uses. Where there is limited topographic relief, the corridor must be well vegetated and adequately buffered from adjacent development.

The property is an irregularly shaped parcel and this shape places a constraint on how the open space is designed. The site does offer a unique topographical feature in several small peaks that are covered with rock outcrops, CSS and CLOW. Near the lower elevations, Forester Creek crosses the property and supports SCLORF habitat. These elements will be placed into a 14.54-acre open space. The targeted species for this open space would be avian species because of the topographical difference between the site and surrounding land uses. The open space will be protected from adjacent development through the placement of fencing, signs and limited building zones.

6. If a corridor is relatively long, it must be wide enough for animals to hide in during the day. Generally, wide linkages are better than narrow ones. If narrow corridors are unavoidable, they should be relatively short. If the minimum width of a corridor is 400 feet, it should be no longer than 500 feet. A width of greater than 1,000 feet is recommended for large mammals and birds. Corridors for bobcats, deer, and other large animals should reach rimto-rim along drainages, especially if the topography is steep.

The proposed open space is not designed as a corridor for the movement of a wide species range. Large species such as bobcat and deer would probably not utilize a "dead-end" corridor for movement that is surrounded on three sides by residential development. The proposed open space represents a topographical change in the surrounding environmental and has a variety of habitats and structural differences. These features make the open space more suitable as a stepping stone island for the movement of avian species. Therefore, the open space regardless of shape or size will function as an avian corridor.

7. Visual continuity (i.e., long lines-of-site) will be provided within movement corridors. This makes it more likely that animals will keep moving through it. Developments along the rim of a canyon used as a corridor should be set back from the canyon rim and screened to minimize their visual impact.

The proposed open space follows an elevational gain from La Cresta Road southeastward towards three small peaks before dropping off to the east. Existing development on three sides of this proposed open space occurs at a lower elevation and will therefore not impact any lines-of-sight between the open space and surrounding lands. Therefore, the project's proposed mitigation will satisfy this finding.

8. Corridors with low levels of human disturbance, especially at night, will be selected. This includes maintaining low noise levels and limiting artificial lighting.

The probably use of the proposed open space is for an avian stepping stone corridor as occurs in the Lakeside Archipelago north of I-8. As an avian movement route, human disturbance from dawn to dusk would be impactive as most avian species move during this time period. The majority of this time period also corresponds with the least amount of activity in a residential neighborhood. Therefore, the surrounding residential uses are not expected to cause undue disturbance. In addition, proposed fencing, signs and limited building zones will provide protection from future human encroachment.

9. Barriers, such as roads, will be minimized. Roads that cross corridors should have ten foot high fencing that channels wildlife to underpasses located away from interchanges. The length-to-width ratio for wildlife underpasses is less than 2, although this restriction can be relaxed for underpasses with a height of greater than 30 feet.

No barriers are proposed with the project.

10. Where possible at wildlife crossings, road bridges for vehicular traffic rather than tunnels for wildlife use will be employed. Box culverts will only be used when they can achieve the wildlife crossing/movement goals for a specific location. Crossings will be designed as follows: sound insulation materials will be provided; the substrate will be left in a natural condition, and vegetated with native vegetation if possible; a line-of-site to the other end will be provided; and if necessary, low-level illumination will be installed in the tunnel.

No wildlife crossings are proposed with the project.

11. If continuous corridors do not exist, archipelago (or stepping-stone) corridors may be used for short distances. For example, the gnatcatcher may use disjunct patches of sage scrub for dispersal if the distance involved is less than 1-2 miles.

The proposed open space is a "stepping stone" patch of 14.74 acres of predominantly CSS habitat. This is the preferred open space for the site because switching the development footprint into the proposed open space area would be more biologically impactive than the current proposal.

### IV. Subarea Plan Findings

Conformance with the objectives of the County Subarea Plan is demonstrated by the following findings:

1. The project will not conflict with the no-net-loss-of-wetlands standard in satisfying State and Federal wetland goals and policies.

The project site may contain jurisdictional resources in two locations on the property. No impacts are proposed within the jurisdictional limits on-site. The access road will impact 0.25-acre of jurisdictional wetlands associated with the crossing of Forester Creek. Mitigation is required such that 0.25-acres of created wetland habitat is purchased. Therefore, the project will achieve the no-net-loss standard.

2. The project includes measures to maximize the habitat structural diversity of conserved habitat areas including conservation of unique habitats and habitat features.

Project development is proposed on the eastern side of the property near existing residences and access to the site. This reduces habitat impacts and grading in comparison to any potential development that could have occurred on the western portion of the property, which is proposed for open space. Preserving the western portion will conserve the most structurally diverse habitat types and retain the topographical difference between the site and surrounding land. Therefore, location of the project footprint will help to "maximize" structural diversity and preserve unique habitats and geologic features.

3. The project provides for conservation of spatially representative examples of extensive patches of Coastal sage scrub and other habitat types that were ranked as having high and very high biological values by the MSCP habitat evaluation model.

The entire project site is mapped as very high habitat value. The proposed mitigation will preserve more than 2/3 of the existing CSS and SCLORF habitat and all of the CLOW habitat. These latter habitat types are Tier I and considered the most sensitive habitats. The open space will total 14.74 acres, which is approximately 63% of the site. Therefore, the project will meet this finding.

4. The project provides for the creation of significant blocks of habitat to reduce edge effects and maximize the ratio of surface area to the perimeter of conserved habitats.

The proposed open space is constrained by the shape of the existing legal parcel. However, the total area is 14.74 acres and will have fencing in strategic locations and open space signs around the entire perimeter to reduce encroachments and edge

effects. Additional limited building zones will be dedicated around the proposed development to preclude future development from impacting the open space. Therefore, the mitigation will result in a significant block of habitat with measures to reduce edge effect impacts.

5. The project provides for the development of the least sensitive habitat areas.

Project development will occur between two residentially developed areas located to the north and south of the project site. Development will impact CSS and a small portion of SCLORF. However, the alternative would be developing on the western portion of the site. Impacts in this area would remove more sensitive CSS, CLOW and SCLORF, palmer's goldenbush, and require extensive grading that would result in noise and air quality issues. Therefore, the proposed development is the least sensitive location on-site.

6. The project provides for the conservation of key regional populations of covered species, and representations of sensitive habitats and their geographic sub-associations in biologically functioning units.

No covered species were observed on-site. However, the project site contains several habitat types that could support covered species such as the California gnatcatcher. The mitigation measures proposed – biological open space, limited building zones, fencing, open space signs and breeding season avoidance – will adequately mitigate for any potential impacts to covered species and habitats.

7. Conserves large interconnecting blocks of habitat that contribute to the preservation of wide-ranging species such as Mule deer, Golden eagle, and predators as appropriate. Special emphasis will be placed on conserving adequate foraging habitat near Golden eagle nest sites.

Although located partially within a regional PAMA linkage, the site has limited functionality for large species movement because of existing development on three sides. The proposed open space represents the most suitable habitat that could act as a "stepping" stone linkage for avian species.

8. All projects within the San Diego County Subarea Plan shall conserve identified critical populations and narrow endemics to the levels specified in the Subarea Plan. These levels are generally no impact to the critical populations and no more than 20 percent loss of narrow endemics and specified rare and endangered plants.

One narrow endemic species occurs on the project site, Palmer's goldenbush. However, it will be completely preserved within the proposed biological open space easement and so impacts have been avoided.

## 9. No project shall be approved which will jeopardize the possible or probable assembly of a preserve system within the Subarea Plan.

The project site is located on the western edge of a regional PAMA linkage that provides a limited secondary alternative for species movement from the Crestridge mitigation bank and Lakeside southward to the Sweetwater River. This linkage includes the undeveloped parcels south of La Cresta Road from the end of Forester Creek Road east towards the area around Old Bend Road. The linkage starts around 1350 feet in width and narrows to 300 feet before reconnecting with the main portion of the PAMA linkage. The proposed project will develop within the portion of the site mapped as PAMA. However, the most sensitive species and habitat types occur within the proposed open space. This preserve represents a potential avian stepping stone because of the topography and habitat diversity, which will contribute to avian dispersal within the overall PAMA linkage. Therefore, the proposed project will no jeopardize preserve assembly.

# 10. All projects that propose to count on-site preservation toward their mitigation responsibility must include provisions to reduce edge effects.

The proposed open space will have perimeter signs around the entire easement. Additional fencing and limited building zones will be placed adjacent to the proposed development to preclude future development from encroaching into the open space. Therefore, provisions will be conditioned on the project to reduce edge effects.

## 11. Every effort has been made to avoid impacts to BRCAs, to sensitive resources, and to specific sensitive species as defined in the BMO.

The project site is located on the western edge of a regional PAMA linkage that provides a limited secondary alternative for species movement from the Crestridge mitigation bank and Lakeside southward to the Sweetwater River. This linkage includes the undeveloped parcels south of La Cresta Road from the end of Forester Creek Road east towards the area around Old Bend Road. The linkage starts around 1350 feet in width and narrows to 300 feet before reconnecting with the main portion of the PAMA linkage. The proposed project will develop within the eastern portion of the site adjacent to existing development to the north and south and close to the site access road. The most sensitive species and habitat types occur within the proposed open space. This preserve represents a potential avian stepping stone because of the topography and habitat diversity, which will contribute to avian dispersal within the overall PAMA linkage. Therefore, every effort has been made to avoid impacts to BRCAs, to sensitive resources, and to specific sensitive species as defined in the BMO.

